

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

ESTATE DUTY REFERENCE No 6 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

CONTROLLER OF ESTATE DUTY

Versus

GANESHMAL SAGAMAL DUGAR

Appearance:

MR AKIL KURESHI with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 22/02/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue,

the following questions are referred to us for our opinion :-

1. Whether the Appellate Tribunal has been right in law in confirming the view taken by the Controller of Estate Duty in directing Assistant Controller of Estate Duty to apply the provisions of Rule 1BB of the Wealth-tax Rules 1957 for the purpose of valuation of residential property under the Estate Duty Act, 1953?
2. Whether while determining the value of the self occupied property of the deceased for the purpose of Estate Duty Act, Rule 1BB of the Wealth-tax Rules, 1957 can be applied ?

2. Ganeshmal Sagamal Dugar expired on 18.2.1976 leaving behind him certain properties including the self occupied residential property. The accountable person showed the value of the said property at Rs.3,33,125/- on the basis of the report of an approved valuer who valued the said property on rental method. The departmental valuation officer, however, valued the property on land and building method and on the basis thereof, the Assistant Controller of Estate Duty estimated the value of the said property at Rs.5,87,975/-. In appeal, the Controller of Estate Duty (Appeals) directed the Assistant Controller to accept the valuation on rental method i.e. Rs.3,33,125/- in view of the provisions of Rule 1-BB of the Wealth-tax Rules, 1957. The Tribunal confirmed the view taken by the Controller of Excise Duty (Appeals).

3. For the detailed reasons given in our decision in Estate Duty Reference No. 1 of 1985, we have held therein that even though sub-section (3) was inserted in Section 36 of the Estate Duty Act with effect from 1.3.1981, the said provision read with Rule 1-BB of the Wealth-tax Rules, 1957 are applicable even to proceedings under the Estate Duty Act where the death took place prior to 1.3.1981 as sub-section (3) of Section 36 of the Estate Duty Act as well as Rule 1-BB of the Wealth-tax Rules, 1957 are procedural provisions and, therefore, applicable also to proceedings pending as on 1.3.1981.

4. We accordingly answer the questions in the affirmative i.e in favour of the assessee and against the revenue.

The reference accordingly stands disposed of with
no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

sundar/-